

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America)	
v.)	
ANDREA LEE GARRIS, a/k/a "Punkin")	Case No: <u>3:99CR73-1</u>
Date of Previous Judgment: <u>April 23, 2002</u>)	USM No: <u>14783-058</u>
(Use Date of Last Amended Judgment if Applicable))	<u>Charles Brewer</u>
)	Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☐ the defendant ☐ the Director of the Bureau of Prisons ☒ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>31</u>	Amended Offense Level: <u>31 (Career Offender)</u>
Criminal History Category: <u>VI</u>	Criminal History Category: <u>VI</u>
Previous Guideline Range: <u>188</u> to <u>235</u> months	Amended Guideline Range: <u>188</u> to <u>235</u> months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction. Apprendi v. New Jersey applied in this case, which resulted in a statutory penalty range of not more than 30 years. Still, the defendant is a career offender and after Amendment 706 was applied to the offense calculations, no change resulted in the total offense level (total of 31) or guideline range (188 to 235 months) compared to the original offense level and guideline range as determined by the Court at sentencing. Therefore, Amendment 706 does not apply in this case.


III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated April 23, 2002, shall remain in effect.

IT IS SO ORDERED.

Order Date: April 29, 2009

Effective Date: _____
(if different from order date)


Graham C. Mullen
United States District Judge



